

Interim Decision #2109

MATTER OF VARGAS-BANUELOS

In Deportation Proceedings

A-13532199

Decided by Board December 6, 1971

- (1) Notwithstanding respondent did not accompany the illegal aliens into the United States, deportability is established under section 241(a)(13), Immigration and Nationality Act, for aiding and abetting aliens to enter illegally, where, in scheming with the aliens in Mexico, he instructed them where to cross the border undetected, told them where to go upon reaching the United States, and arranged for an accomplice to drive respondent's truck to El Paso, Texas to meet them.
- (2) Respondent, a lawful permanent resident, who initially departed the United States with the intention of making an innocent, casual and brief visit in Mexico but who deviated from this intention and embarked upon a course of conduct contrary to a policy reflected in the immigration laws (aiding and abetting aliens to enter illegally), thereby transformed the innocent character of his trip. Hence, he does not come within the ambit of *Rosenberg v. Fleuti*, 374 U.S. 449 (1963), and upon his return made an entry upon which to predicate a ground of deportation. [*Yanez-Jacquez v. INS*, 440 F.2d 701 (C.A. 5, 1971), distinguished.]

CHARGE:

Order: Act of 1952—Section 241(a)(13) [8 U.S.C. 1251(a)(13)]—Alien who prior to entry, knowingly and for gain, encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law.

ON BEHALF OF RESPONDENT:

Karl Friedman, Esquire
American Bank of Commerce Bldg.
Suite 405
El Paso, Texas 79901
(Brief filed)

ON BEHALF OF SERVICE:

Irving A. Appleman
Appellate Trial Attorney
William E. Weinert
Trial Attorney
(Brief filed)

The special inquiry officer found the respondent deportable as charged in his decision of November 2, 1970. The special inquiry officer denied the privilege of voluntary departure as a matter of